

APPEAL NO. 032285  
FILED OCTOBER 21, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 28, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appealed, disputing the hearing officer's finding that she did not attempt in good faith to obtain employment commensurate with her ability to work and the determination that she is not entitled to SIBs for the second quarter. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that claimant had a whole body impairment rating of 15% or more from the compensable injury; that the claimant did not commute the impairment income benefits; that the qualifying period for the second quarter was from November 12, 2002, to February 10, 2003; and that the second quarter was from February 24 to May 25, 2003. At issue is the requirement of a good faith effort to obtain employment commensurate with the employee's ability to work pursuant to Section 408.142(a)(4) and Rule 130.102(d)(5).

Rule 130.102(d)(5) provides, in pertinent part, that an injured employee has made the required good faith effort if the employee "has provided sufficient documentation as described in subsection (e) of this section to show that he or she has made a good faith effort to obtain employment." Subsection (e) further provides that the injured worker "who is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The hearing officer noted that the Applications for [SIBs] (TWCC-52) do not document a job search attempt for each week of the qualifying period.

Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve from the evidence presented. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In her appeal, the claimant requests a rehearing to be allowed to present additional evidence as to why she did not apply for jobs sent to her by the vocational consultant. We note that the claimant was given every opportunity to present any evidence she felt was necessary to prove her case at the CCH. We find no basis to reverse the hearing officer's decision.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **FAIRMONT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BOB KNOWLES  
5205 NORTH O'CONNOR BOULEVARD  
IRVING, TEXAS 75039.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Edward Vilano  
Appeals Judge